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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,412	11/04/2003	Robert McClure	DBS / 02	5783
26875	7590	07/12/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			LOFDAHL, JORDAN M	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/700,412

Applicant(s)

MCCLURE ET AL.

Examiner

Jordan Lofdahl

Art Unit

3644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 25-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/1/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 1-9 and 25-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/8/04.

Applicant's election with traverse of elected invention Group II (claims 10-24) in the reply filed on 6/8/04 is acknowledged. The traversal is on the ground(s) that the inventions are similar. This is not found persuasive because although the inventions are similar they are deemed to be patentably distinct. As stated in the restriction requirement, the method steps of Group II can be done by hand which is considered a patentably distinct process.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 10-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Duniam et al. (6644202).

As to claim 10, Duniam et al. discloses a method comprising the steps of having a programming unit (32) capable of being moved to the first detonator; the unit adapted to download blasting information; determining blasting info (col. 4, lines 23-29) and downloading the determined blasting info.

As to claim 11, disclosed is a delay time and identifier (fig. 1).

As to claim 12, disclosed is the step of incrementing the delay time by a desired amount according to a direction of movement of the unit (direction of movement and the location of the detonator is read by the GPS) to the first detonator.

As to claim 13, disclosed is the step of identifying the delay time based on an actual location of the first detonator, as measured by the unit while at the first detonator.

As to claim 14, disclosed is verifying correct blasting info and inherently referenced to the location of the first detonator (abstract).

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As to claim 15, disclosed is checking from a remote site.

As to claim 16, disclosed is a unit capable of being moved by a technician.

As to claim 17, disclosed is the step of communicating the blasting information to a controller and moving, determining and downloading that is capable of being repeated.

As to claim 18, disclosed is a step of associating an identifier with each detonator (fig. 1); having a programming unit (32) capable of being moved to each detonator; while at each detonator the step of determining a desired delay time and correlating the delay time with respect to the identifier via a gps associated with the unit and based on communicating to a blasting controller (32).

As to claim 19, disclosed is a step of placing charges (detonators) in the boreholes; associating at least one detonator with each charge (detonator); and connecting the detonators to the blasting controller via cables (fig. 1).

As to claim 20, disclosed is the step of verifying the operability of the detonators (testing).

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As to claim 21, disclosed is the step of incrementing a first delay time based on the distance and direction moved to the first detonator (the delay time is based on the data derived from the GPS which is based on the location and direction of the first detonator).

As to claim 22, disclosed is a cradle (fig. 2).

As to claim 23, disclosed is the step of retrieving an identifier; correlating the identifier to an expected location (position of detonator); receiving positional data (from GPS); and determining directional data and displaying to the technician.

As to claim 24, disclosed is the step of having a unit capable of being moved to the first detonator; downloading a first delay time into said first detonator (col. 4, lines 23-29); determining a second delay time (col. 4, lines 23-29); and downloading delay time into second detonator.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on m-f 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703.306.4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jml

  
MICHAEL CARONE  
SUPERVISORY PATENT EXAMINER